



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

August 8, 1991

Ms. Karen J. Cox  
Staff Attorney  
Office of Legal Counsel  
State Board of Insurance  
1110 San Jacinto  
Austin, Texas 78701-1998

OR91-355

Dear Ms. Cox:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12780.

You have received a request for records which contain information relating to your agency's disciplinary action against John Henry Pelt, John Kyle Pelt, and Aztec General Agency. Although you assert that you have no objections to releasing some of the requested information, you object to disclosing information relating to complainants and documentation of their complaints and claim exemption from such disclosure under sections 3(a)(1) and 3(a)(3).

Section 3(a)(3) provides the following exception:

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

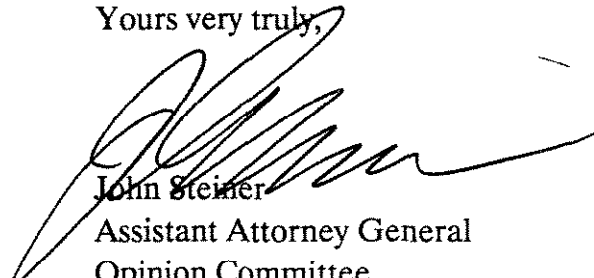
V.T.C.S. art. 6252-17a, § 3(a)(3)

A prior open records decision issued by this office, Open Records Decision

No. 551 (1990) addresses the applicability of section 3(a)(3). A section 3(a)(3) claim requires a showing that (1) you are now, or will likely be, a party to civil or criminal litigation and (2) the requested "information must relate to that litigation." *Id.* at 4 citing, *Heard v. Houston Post Co.*, 684 S.W. 2d 210 (Tex. App.--Houston [1st Dist.] 1984, writ *ref'd n.r.e.*). We have examined the exception you claimed, specifically section 3(a)(3), and have reviewed the documents at issue. You have adequately demonstrated that you meet the two criteria for claiming exception under section 3(a)(3). For this reason you may withhold the requested information. Because we resolve your question under section 3(a)3, we need not consider the applicability of section 3(a)(1).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-355.

Yours very truly,



John Steiner  
Assistant Attorney General  
Opinion Committee

JS/GK/lb

cc: Patricia M. Hanson  
O. N. Mike Baker  
Attorney at Law, Inc.  
5901 Allday  
Houston, Texas 77036